



**Town of Walpole
Commonwealth of Massachusetts
Zoning Board of Appeals**

John Lee, Chairman
Susanne Murphy, Vice Chairman
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Rick Merrikin, Member
Drew Delaney, Associate Member

DECISION - BOARD OF APPEALS CASE NO. 23-18

APPLICANT:
Michele Perrotti

LOCATION OF PROPERTY INVOLVED:
19 Cherokee Lane
Walpole Assessors Lot No. 35-120-10
Zoning District: RB

FILE

APPLICATION:

A **Special Permit** under Section 5-B.2. of the Zoning Bylaw to allow an Accessory In-Law Suite to be constructed on the lot, as shown on a plan entitled "Perrotti Residence", dated October 10, 2018, prepared by R. Maiello, as amended, and any such other relief as the Board deems appropriate or necessary.

On December 5, 2018 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a **Special Permit**.

The following members were present and voting:

John Lee, Chairman
Robert Fitzgerald, Clerk
Mary Jane Coffey, Member
Rick Merrikin, Member
Drew Delaney, Associate Member

A motion was made by Mr. Fitzgerald and seconded by Ms. Coffey to grant a Special Permit under Section 5-B.2. of the Zoning Bylaw to an Accessory In-Law Suite of 975 s.f. at 19 Cherokee Lane, Walpole, Ma.

The vote was **(5-0-0) in favor**; (Lee, Fitzgerald, Coffey, Merrikin, Delaney voting); therefore the application for a **Special Permit** is hereby **granted**, subject to the following conditions:

CONDITIONS:

1. The Accessory In-Law Suite shall not be held in separate ownership from the principal dwelling unit.
2. The owner of the Accessory In-Law Suite and the principal dwelling unit shall occupy the principal dwelling unit.
3. The Accessory In-Law Suite shall only be occupied by individuals within the third degree of kinship of the owner of the principal dwelling unit.
4. The property owner shall record this Decision with the Norfolk County Registry of Deeds and provide a copy along with proof of recording to the Board of Appeals, Town Clerk and Building Department.
5. When ownership of the property changes, the new owner shall notify the Building Commissioner so as to update the Accessory In-Law Suite List.
6. The Accessory In-Law Suite shall be constructed as shown on the plans submitted with the Application at the public hearing of December 5, 2018, labeled "Perrotti Residence" and "Perrotti Residence Site Plan" dated October 10, 2018, by R. Maiello Landscape Architect. At the hearing, the applicant submitted two replacement sheets for the plans originally submitted with the application but with the same date. The two replacement sheets, Sheet S1 Site plan showing a proposed addition of 975 s.f. and Sheet A0 Existing Floor Plan showing the perimeter of the Accessory In-Law Suite shall control over the same sheets of the same name submitted with the initial application.
7. The Applicant shall receive a Certificate of Occupancy from the Building Department before occupying the Accessory In-Law Suite.
8. There will be one (1) water meter for the house and Accessory In-Law Suite unless the Applicant receives permission from the Board to install a second meter.
9. There shall be no lodgers in either the original dwelling unit or the Accessory In-Law Suite.
10. The Applicant will work with the Fire Department and E911 to determine if the Accessory In-Law Suite requires its own address.
11. The life safety devices (smoke and carbon monoxide (CO) detectors) in the main house and Accessory In-Law Suite will be brought into compliance with the current fire code.
12. Plans with Smoke and CO detectors will be submitted to the Walpole Fire Department for review and approval, with a follow up Fire Department inspection to confirm conformance with the approved plans.
13. There shall be no door separating the area shown as the Existing Kitchen, as shown on Plan Sheet A2 First Floor Plan, and the hallway connecting to the Accessory In-law Suite .

REASONS FOR DECISION:

It is the finding of the Board that the Applicant was able to meet the requirements of Section 5-B.2. to allow the requested Accessory In-Law Suite at the subject property, subject to the conditions set forth above. The Board finds that the Accessory In-Law Suite is in character with and follows the intent of the Zoning District in which it is located. Accordingly, the Board has determined that the Special Permit requested is warranted. Specifically, the Board made the following findings pursuant to Section 2.2.B.(1) of the Zoning Bylaw:

(a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;

The Board finds that, as conditioned herein, the proposed Accessory In-Law Suite complies with all of the criteria of Section 5-B.2 A & B as set forth above. Accordingly, the Board finds this condition satisfied.

(b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;

The Applicant does not propose any changes to the existing parking or driveway. The addition of an Accessory In-Law Suite will neither impact the convenience and safety of vehicular and pedestrian traffic within the site nor affect the current conditions on adjacent streets. The volume of traffic will not change as a result of this project and will not have significant impact on Cherokee Lane. There should not be any adverse effect to adjacent roads as any additional new trips generated will be minimal and the capacity of the road is sufficient. Accordingly, the Board finds this condition is satisfied.

(c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;

The addition of two adults to the Applicant's home, for a total of five (5) family members living under one roof, is in alignment with other homes in the immediate neighborhood, which is made up of primarily 4-bedroom homes. The single-family home being residential in nature will have no employees or customers. Accordingly, the Board finds this condition satisfied.

(d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;

As shown on the Plans, the single-family dwelling conforms to the dimensional requirements of the Zoning Bylaw. As this house is a residential use, there is no buffer zone required. Accordingly, the Board finds that this condition is satisfied.

(e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;

The proposed Accessory In-Law Suite is residential in nature and there is nothing being used to cause any danger to the immediate neighborhood of the premises through fire, explosion, emissions of waste or other causes. Accordingly the Board finds this condition satisfied.

(f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;

The proposed use is residential in nature. There is nothing being used, generated or otherwise that would create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or hazard so as to adversely affect the immediate neighborhood. Accordingly, the Board finds this condition is satisfied.

(g) shall not adversely affect the character of the immediate neighborhood; and

The immediate neighborhood is residential in nature and the proposed project is consistent with the area and immediate neighborhood. The architectural plans show the house being renovated in a tasteful manner that is consistent with the size and construction of other houses in the neighborhood. As such, the proposed extension and alteration will not have an adverse effect on the character of the immediate neighborhood. Accordingly, the Board finds this condition is met.

(h) shall not be incompatible with the purpose of the Zoning Bylaw or the purpose of the zoning district in which the premises is located.

The Board finds that the purpose of the Zoning Bylaw in part states, "to encourage housing for persons of all income levels..." *"to encourage the most appropriate use of the land"*. The proposed Accessory In-Law Suite complies with the performance standards of the By-Law and as such is consistent with the intent and purpose of *Section 5-B.2. Accessory In-Law Suites* of the Bylaw. As a result, this condition is satisfied.

Additionally, the necessary Findings and Determinations noted in Section 5-B.2. B. & C. of the Zoning Bylaw have been satisfied and addressed through this Decision and the conditions.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the

decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit-accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS


Robert Fitzgerald, Clerk



RF/am

cc: Town Clerk
Applicant
Building Inspector

This decision was made on December 5, 2018 and filed with the Town Clerk on December 17, 2018